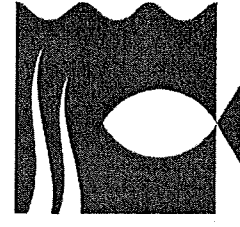


**Connecticut Fund
for the Environment**



Save the Sound®
A program of
Connecticut Fund for the Environment

Senator Meyer and Representative Roy,

I am writing to ask you to oppose S.B. 835 unless it is modified to provide apply to all parties that may be negatively impacted by a certain development, not just applicants. These matters were brought to the committee's attention at the public hearing by Margaret Miner of Rivers Alliance and Connecticut Fund for the Environment, along with its permanent program Save the Sound, strongly concurs with her comments.

The bill would provide a right of hearing and appeal on a structures and dredging permit for any "applicant" aggrieved by a DEP decision. The law, as it currently exists, only provides for a hearing if the application would (a) significantly impact a shellfish area, (b) have interstate ramifications or (c) require a certificate of environmental compatibility and public need or FERC approval.

The proposed bill, as written, would eliminate these three requirements for applicants but not for other aggrieved parties. It is beyond question that neighbors or others can be aggrieved by inappropriate activities that violate environmental or other standards. Recent experience with cell phone towers and ATS systems are prime examples of the need for public participation to inform these decisions. Connecticut has a long history of allowing hearings and appeals not just from applicants, but from persons that are aggrieved by land use and environmental decisions.

Moreover, in the Permit Assessment Report DEP performed last year pursuant to P.A. 10-158, the agency concluded that intervention in DEP permit processes was "rare" and that CEPA was invoked only .2 percent of the permits issued by DEP. (see pages VII-3 and VII-4). Thus, any increase in hearings or appeals above and beyond those by applicants would be nominal.

Accordingly, we ask that you oppose this bill in its current form and submit a substitute bill to (1) eliminate the additional requirements for a public hearing for all parties, not just applicants, and (2) allow for appeal by any aggrieved person, not just aggrieved applicants. Proposed language is attached.

I appreciate your attention to this matter and am happy to talk further at your convenience.

SB 835

AN ACT CONCERNING THE STRUCTURES AND DREDGING PERMIT PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 22a-361 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(b) The commissioner, at least thirty days before approving or denying an application for a permit, shall provide or require the applicant to provide notice, by certified mail, return receipt requested, or by electronic means to the applicant, to the Commissioner of Transportation, the Attorney General and the Commissioner of Agriculture and to the chief executive officer, the chairmen of the planning, zoning, harbor management and shellfish commissions of each town in which such structure, fill, obstruction, encroachment or dredging is to be located or work to be performed, and to the owner of each franchised oyster ground and the lessee of each leased oyster ground within which such work is to be performed and shall publish such notice once in a newspaper having a substantial circulation in the area affected. [,] Such notice [of] shall contain (1) the name of the applicant; (2) the location and nature of the proposed activities; (3) the tentative decision regarding the application; and (4) any additional information the commissioner deems necessary. There shall be a comment period following the public notice during which interested persons may submit written comments. The commissioner may hold a public hearing prior to approving or denying an application if, in the commissioner's discretion, the public interest will best be served by holding such hearing. The commissioner shall hold a public hearing if the commissioner receives a written request for such a hearing from the applicant, or a petition requesting such hearing that is signed by twenty-five or more persons and an application will: (A) Significantly impact any shellfish area, as determined by the director of the Bureau of Aquaculture at the Department of Agriculture, (B) have interstate ramifications, or (C) involve any project that requires a certificate issued pursuant to section 16-50k or approval by the Federal Energy Regulatory Commission or an organization with more than twenty-five or more members. Following such notice and comment period and public hearing, if applicable, the commissioner may, in whole or in part, approve, modify and approve or deny the application. The commissioner shall provide to the applicant and the persons set forth above, by certified mail, return receipt requested, or by electronic means, notice of the commissioner's decision. If the commissioner requires the applicant to provide the notice specified in this subsection, the applicant shall certify to the commissioner, no later than twenty days after providing such notice, that such notice has been provided in accordance with this subsection. Any applicant person aggrieved by a final decision of the commissioner after a hearing on such matter may appeal to the Superior Court in accordance with the provisions of section 4-183.

Section 1. Subsection (b) of section 22a-361 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(b) The commissioner, at least thirty days before approving or denying an application for a permit, shall provide or require the applicant to provide notice, by certified mail, return receipt requested, or by electronic means to the applicant, to the Commissioner of Transportation, the Attorney General and the Commissioner of Agriculture and to the chief executive officer, the chairmen of the planning, zoning, harbor management and shellfish commissions of each town in which such structure, fill, obstruction, encroachment or dredging is to be located or work to be performed, and to the owner of each franchised oyster ground and the lessee of each leased oyster ground within which such work is to be performed and shall publish such notice once in a newspaper having a substantial circulation in the area affected. [.] Such notice [of] shall contain (1) the name of the applicant; (2) the location and nature of the proposed activities; (3) the tentative decision regarding the application; and (4) any additional information the commissioner deems necessary. There shall be a comment period following the public notice during which interested persons may submit written comments. The commissioner may hold a public hearing prior to approving or denying an application if, in the commissioner's discretion, the public interest will best be served by holding such hearing. The commissioner shall hold a public hearing if the commissioner receives a written request for such a hearing from the applicant, or a petition requesting such hearing that is signed by twenty-five or more persons and an application will: ~~(A) Significantly impact any shellfish area, as determined by the director of the Bureau of Aquaculture at the Department of Agriculture, (B) have interstate ramifications, or (C) involve any project that requires a certificate issued pursuant to section 16-50k or approval by the Federal Energy Regulatory Commission or an organization with more than twenty-five or more members.~~ Following such notice and comment period and public hearing, if applicable, the commissioner may, in whole or in part, approve, modify and approve or deny the application. The commissioner shall provide to the applicant and the persons set forth above, by certified mail, return receipt requested, or by electronic means, notice of the commissioner's decision. If the commissioner requires the applicant to provide the notice specified in this subsection, the applicant shall certify to the commissioner, no later than twenty days after providing such notice, that such notice has been provided in accordance with this subsection. Any applicant person aggrieved by a final decision of the commissioner after a hearing on such matter may appeal to the Superior Court in accordance with the provisions of section 4-183.

